

MONTANA LEGISLATIVE HISTORY

Chapter 48 19 77

Bill H 483 S _____

Original bill & history ☒ C

H. Committee on Highways + Transportation

S. Committee on Judiciary

Hearing Date(s) Feb 03 ☒ C

Hearing Date(s) Feb 21 ☒ C

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Date Out Feb 03 ☒ C

Feb 21 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 H BILL NO. 483
2 INTRODUCED BY W. Barth
3 BY REQUEST OF THE DEPARTMENT OF HIGHWAYS
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE AND PROVIDE A
6 MANNER FOR COMPUTING THE AMOUNT OF NECESSARY EXPENSES OF
7 LITIGATION REQUIRED BY SECTION 93-9921.1, R.C.M. 1947."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 Section 1. Necessary expenses of litigation. (1)
11 Necessary expenses of litigation as authorized by 93-9921.1
12 mean reasonable and necessary attorney fees, expert witness
13 fees, exhibit costs, and court costs.
14 (2) Reasonable and necessary attorney fees are the
15 customary rates for an attorney's services in the county in
16 which trial is held, provided that reasonable and necessary
17 attorney fees may not exceed \$50 an hour. Reasonable and
18 necessary attorney fees may not be computed on the basis of
19 any contingent fee contract entered into after July 1, 1977.
20 (3) Reasonable and necessary expert witness fees may
21 not exceed the customary rate for the services of a witness
22 of such expertise in the county in which trial is held.

-End-

HB483

INTRODUCED BILL

HIGHWAYS AND
TRANSPORTATION COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 373	"An Act to Change the Date for Renewing Aircraft Registration; Amending Sections 1-325 and 84-4218, R.C.M. 1947."	1-22-77	Fagg	2/1/77	Sent to Rules Committee	2/11/77
HB 393	"An Act Amending Section 31-135, R.C.M. 1947, to Provide for the Voluntary Inclusion of Emergency Medical Information on a..."	1-22-77	Tower	1-27-77 2-1-77	Indefinitely Postponed	
HB 483	"An Act to Define and Provide a Manner for Computing the Amount of Necessary Expenses of Litigation Required by Section 93-9921.1, R.C.M. ..."	1-22-77	Baeth	2/3/77	Do Pass	2/3/77
SB 94	"An Act to Amend Section 32-3928, R.C.M. 1947, to Provide that the Application for Relocation Assistance be Reviewed by the Director of Highways."	1-26-77	Healy	3/8/77	CONCURRED IN	3/8/77
SB 98	"An act to Amend Section 32-2614, R.C.M. 1947, Relating to Funds for the Replacement of Bridges."	1-26-77	Hager	3/8/77	CONCURRED IN	3/8/77
HB 533	"An Act to Define the Offense of Negligent Driving and to Make it punishable as provided in Section 32-21-157, R.C.M. 1947."	1-26-77	Brand	2/3/77	As Amended, Do Pass	2/3/77

HIGHWAYS AND TRANSPORTATION
COMMITTEE

February 3, 1977

The Committee on Highways and Transportation was called to order on February 3, 1977, at 4:00 p.m. with Chairman Baeth presiding and all members were present except Representative Hansen, who was excused.

The following bills were scheduled for discussion today: HB 483, HB 533, HB 601, HJR 46. See visitor's lists attached.

HOUSE BILL 483

Representative Baeth, sponsor of this bill, said this bill was introduced on request of the Department of Highways. Jim Beck, attorney for the Department of Highways, discussed this bill with the committee. He explained this bill is patterned after the Washington bill. This act would define and provide a manner for computing the amount of necessary expenses of litigation.

There were no opponents. Hearing closed on HB 483.

HOUSE BILL 601

Representative Dorothy Bradley, sponsor of this bill, said her bill will provide a penalty for speed violations in excess of 70 mph. She asked for one amendment: page 1, line 21, strike "Bond for this offense shall be \$5."

Former Lt. Governor Bill Christianson appeared as a proponent. He handed out a report entitled United States Dependence on Petroleum Imports. He said he felt this bill will help in the conservation of fuel. He went into details of the volume of fuel used in the United States, both domestic and imported. He reported that 75% of the miles traveled in Montana are under the state speed limit. There is considerably more fuel used for each ten miles per hour increase in speed over fifty. Other fuel products can be made for every gallon of gas saved.

Don Allen, executive director of the Montana Petroleum Association, said they endorse the concept of this bill. Anything we can do to encourage conservation of fuel is good. Supplies are limited and we depend more and more on imported fuel.

EXECUTIVE SESSION

HOUSE JOINT RESOLUTION 46

Rep. Mular made a motion to DO PASS. Rep. Kanduch seconded it. Ten voted yes with Rep. Pistoria and Rep. Wood voting no. Rep. Hansen was excused.

HOUSE BILL 483

Rep. Kropp moved DO PASS. Rep. Mular seconded it. It was unanimously passed. Rep. Hansen was excused.

HOUSE BILL 533

Rep. Wood made motion for the following amendment: Strike "so as to endanger the property or life or limb of any person". Rep. O'Keefe seconded it. It was unanimously passed. Rep. Hansen was excused.

Rep. Keyser made a motion AS AMENDED, DO PASS. Rep. Kanduch seconded it. It was unanimously passed. Rep. Hansen was excused.

HOUSE BILL 601

Rep. Mular made a motion DO NOT PASS. Rep. Kropp seconded it. Nine voted yes with Rep. Tropila, Keyser and Kanduch voting no. Motion carried. Rep. Hansen excused.

Rep. Tropila made a motion to adjourn. Rep. Mular seconded it. Meeting adjourned at 5:50 p.m.

William R. Baeth
William R. Baeth, Chairman

FORTY-FIFTH LEGISLATIVE SESSION
1977
 COMMITTEE ON JUDICIARY

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
H.B. 396	3-4-77	3-11-77	3-11-77				3-11-77		
H.B. 411	3-2-77	3-17-77	3-24-77					3-24-77	
H.B. 456	2-14-77	3-8-77	3-19-77						3-19-77
H.B. 457	3-2-77	3-22-77	3-30-77					3-30-77	
H.B. 461	4-6-77	4-8-77	4-12-77				4-12-77		
H.B. 472	2-19-77	3-17-77	3-18-77				3-18-77		
H.B. 483	2-10-77	2-21-77	2-21-77					2-21-77	
H.B. 492	2-14-77	3-7-77	4-1-77					4-1-77	
H.B. 497	2-25-77	3-15-77	3-15-77				3-15-77		
H.B. 498	2-17-77	3-18-77	3-30-77					3-30-77	
H.B. 499	2-14-77	3-4-77	4-2-77					4-2-77	
H.B. 500	2-14-77	3-7-77	3-7-77				3-7-77		
H.B. 513	2-14-77	3-8-77	3-24-77					3-24-77	
H.B. 533	2-25-77	3-18-77	3-19-77				3-19-77		
H.B. 544	3-5-77	3-23-77	4-1-77						4-1-77
H.B. 567	2-17-77	3-2-77	3-29-77					3-29-77	

(Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 21, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 9:35 a.m. on the above date in Room 442 of the State Capitol Building.

ROLL CALL:

All members of the committee were present, with Senator Roberts arriving from another meeting at 10:40 and Senator Warden being excused at 10:00 a.m. to attend another meeting.

WITNESSES PRESENT TO TESTIFY:

Representative Keyser - District 81, Ennis
Representative Day - District 54, Glendive
Gail Stoltz - director, dept. of cooperation, Montana Farmers Union
Fran Mertes - Glendive Chamber of Commerce & Richland and Dawson
Co. Conservation District
Wayne Haas - Buffalo Rapids Irrigation Project
Tom Weir - Yellowstone Basin Water Use Assn.
Ted Doney - Dept. of Natural Resources, chief legal counsel
Duane Erickson - Buffalo Rapids
John Peplinski - Glendive Area Farmers
John Marciniok - Wibaux, Montana
Representative Huennekens - District 68, Billings
Representative Baeth - District 21, Libby
Margaret Davis - League of Women Voters of Montana
Jim Beck - Department of Highways, attorney
Representative Johnston - District 13, Cut Bank
Ray Blehm - Montana Firemen's Assn.
Dennis Haddow - Air Quality Bureau, SDHES

CONSIDERATION OF HOUSE BILL 226:

Representative Keyser, sponsor of this bill, explained that it has a more severe approach to providing a penalty for reckless driving when a driver attempts to flee from or elude officers.

CONSIDERATION OF HOUSE BILL 310:

Representative Day, chief sponsor of this bill, told the committee that he had introduced it at the request of the Department of Natural Resources. He then explained the bill and said that there had been a moratorium put on water which will expire on March 11, 1977, and that this bill would extend it to January 1, 1978. Also, that this bill has the possibility of extending the moratorium to March 1, 1979, when the legislature could take the appropriate action it deems necessary.

The first proponent of H. B. 310 was Gail Stoltz, Montana Farmers Union, who read the attached statement to the committee. (See Exhibit 1)

CONSIDERATION OF HOUSE BILL 5:

Representative Huennekens, District 68, Billings, sponsor of the bill, said that it was desirable to give the legislature more control and this would establish the office of court administrator, and that, at the present time, the draw on the state treasury is small because of federal funding.

Margaret Davis, representing the Montana League of Women Voters, said that they fully support the bill and read a statement in support of these functions.

There were no opponents present at this meeting.

CONSIDERATION OF HOUSE BILL 483:

Representative Baeth of District 21, Libby, said that he had introduced this bill at the request of the Highway Patrol, and introduced the attorney for the Department of Highways, Jim Beck, who read a statement explaining the bill in which he said that the private property owner prevails and that there is no statutory guidelines for attorney fees. He said that the attorney usually gets what he asks for and that some judges are generous and even grant the attorney more than he seeks. He further told the committee that this bill is patterned after the Washington statute which calls for a fee for attorneys of \$50 an hour which he felt was fair.

There were no opponents, so the Chairman allowed the committee members to question Mr. Beck. Senator Regan suggested to Mr. Beck that the bill be amended on page 1, section 1, line 18, following "fees" by inserting "shall be computed on an hourly basis and". Mr. Beck had no objection to the amendment. It was also decided that page 1, line 15, should be amended following "customary" by inserting "hourly" and that page 1, lines 16 and 17, should be amended following "held" by striking ", provided that reasonable and necessary attorney fees may not exceed \$50 and hour". Sen. Towe moved the adoption of the previous amendments. The motion carried unanimously. Senator Towe then moved that H.B. 483 as amended BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HOUSE JOINT RESOLUTION 7:

Representative Johnston of Cut Bank, sponsor of the resolution, explained what it would do regarding permits for pollution or fires. He said that it would not apply where the Forest Service is in control of the land.

The first proponent was Ray Blehm, representing the Montana Firemen's Assn. who said that they support the resolution and that most burning permits are given by the pollution control department so they have trouble verifying them. His association would like to have them go through the fire department.

JUDICIARY COMMITTEE

Date 2-21-77

[illegible]

1000

(Please leave prepared statement with Secretary)

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3 BY REQUEST OF THE DEPARTMENT OF HIGHWAYS.

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17 ~~necessary attorney fees may not exceed \$50 an hour.~~

18 Reasonable and necessary attorney fees SHALL BE COMPUTED ON
19 AN HOURLY BASIS AND may not be computed on the basis of any
20 contingent fee contract entered into after July 1, 1977.

21 (3) Reasonable and necessary expert witness fees may
22 not exceed the customary rate for the services of a witness
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-End-

REFERENCE BILL

HB 483